

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 09-6217

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

MARIO LAMONT JOHNSON,

Defendant - Appellant.

Appeal from the United States District Court for the Eastern District of North Carolina, at Greenville. Malcolm J. Howard, Senior District Judge. (5:04-cr-00270-H-1)

Submitted: May 21, 2009

Decided: May 29, 2009

Before MOTZ, TRAXLER, and AGEE, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Mario Lamont Johnson, Appellant Pro Se. Anne Margaret Hayes, Assistant United States Attorney, Raleigh, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Mario Lamont Johnson appeals the district court's order denying his motion for sentence reduction under 18 U.S.C. § 3582(c)(2) (2006). Johnson contends that he was entitled to a reduction under Amendment 706 of the U.S. Sentencing Guidelines Manual ("USSG"), which lowered the base offense levels for drug offenses involving cocaine base. See USSG § 2D1.1(c) (2007 & Supp. 2008); USSG App C. Amend. 706. Because Johnson was sentenced on the basis of his status as a career offender, we find that the district court did not abuse its discretion in denying Johnson's motion. See United States v. Sharkey, 543 F.3d 1236, 1238-39 (10th Cir. 2008); United States v. Moore, 541 F.3d 1323, 1330 (11th Cir. 2008); United States v. Thomas, 524 F.3d 889, 889-90 (8th Cir. 2008).

Accordingly, we affirm the district court's order. United States v. Johnson, No. 5:04-cr-00270-H-1 (E.D.N.C. Jan. 28, 2009). We also deny Johnson's motion for appointment of counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED